

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC,

Plaintiff,

V.

Texas Instruments, Inc., et al.,

Defendants.

Case No. 6:12-cv-499-MHS

Lead Case

Jury Trial Demanded

Declaration of Scott Moskowitz in Support of Blue Spike's Opposition to Google's Motion to Transfer Venue

I, Scott Moskowitz, declare as follows:

1. I am the Chief Executive Officer of Blue Spike LLC, a Texas limited liability company.
2. I am one of the inventors of all four patents-in-suit.
3. I am domiciled at 433 S. Chilton Avenue, Unit 3, Tyler, Texas 75702.
4. From about 2006, I continue to suffer from a medical condition that results in debilitating pain. As a result, my pain treatment doctor has been providing me an experimental new treatment for me.
5. Currently, I cannot receive these treatments other than in Miami. I also own a condominium in Florida that requires me to maintain it until completion of pending construction defect litigation.
6. Blue Spike has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201C, Tyler, Texas 75703. Tyler, Texas has been Blue Spike's headquarters, principal place of business, and sole operational location since May 2012.

7. Blue Spike, LLC was founded and formed in Tyler in May 2012. Its sole office is in Tyler. Its employees all work in Tyler. Blue Spike has its servers in Tyler with a redundant power supply back-up system, maintains all company documents in Tyler, and has its sources of proof in Tyler. Blue Spike is a member of the Tyler Chamber of Commerce. Blue Spike sponsored the Tyler Mini Maker Faire. *See* <http://tylermakerfaire.com/> as visited on May 20, 2013. Its sources of proof for this litigation are maintained there.

8. Blue Spike is a contributing member to meetings and communications with getIT (Greater East Texas Information Technology Professionals, a Tyler Area Chamber of Commerce sponsored program). *See* <http://www.easttexasit.com/Default.aspx?pageId=1142878&eventId=441677>.

9. I am a lifetime member in the Historic Aviation Memorial Museum at Tyler Pounds Regional Airport, a contributing member of Tyler's children science museum, and the Tyler Discovery Science Place. I also am active in pictorially documenting the Tyler Rose Garden and its 36,000 bushes and over 500 varieties of roses, as well as, Tyler Pounds' Historic Aviation Memorial Museum and its vintage airplanes.

10. As CEO of Blue Spike LLC, I continue to work to commercialize Blue Spike's patents and develop new inventions in Tyler.

11. Blue Spike plans to call witnesses from Texas, including me, who will testify about the accused products in this lawsuit.

12. Blue Spike has no offices, no employees, no customers, and no other meaningful contacts in the Northern District of California. I have never met with my attorneys in California. I last met with my litigation counsel in their Tyler Office, located 218 N. College Ave, Tyler, Texas in May 2013. I have not even traveled to Northern California in the last decade as the last brief

visit was in 2003. Subsequently, I developed a medical condition described above.

13. Litigating this action in the Northern District of California would be very difficult for me due to my medical condition.

14. Litigating this action in the Northern District of California would be extremely inconvenient, expensive, and burdensome for Blue Spike.

15. A transfer would dramatically increase the costs of litigation for Blue Spike and would increase the amount of time that Blue Spike's witnesses and employees would have to spend litigating the case.

16. Transfer would cause serious hardship for me personally, due my medical condition that makes it very painful to travel long distances.

I declare, on May 20, 2013, in Miami, Florida and under penalty of perjury under the laws of the United States and Texas, that the statements made in this declaration are true and correct.

/s/ Scott Moskowitz
Scott Moskowitz

ATTESTATION

I, Randall Garteiser, am the ECF user filing this document with the permission of the signer above, Scott Moskowitz. A true and correct copy of this signed document is being maintained at the law firm of Garteiser Honea, P.C.

/s/ Randall Garteiser
Randall Garteiser